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12 UNITED STATES DISTRICT COURT
13 DISTRICT OF NEVADA

14 Cary Williams,
15 Petitioner,
16 v.
17 William Gittere, *et al.*,
18 Respondents.

Case No. 2:98-cv-00056-APG-VCF

**Stipulation and Proposed
Scheduling Order Regarding:
(1) Deposition Testimony of Dr.
Erin Bigler; and (2) Remaining
Deadlines**

DEATH PENALTY CASE

1 Last fall, the parties filed a Stipulation and Proposed Scheduling Order to
2 Continue Proceedings 90 days.¹ This Court accepted the stipulation, adopted the
3 proposed deadlines, and scheduled the evidentiary hearing to begin on May 16,
4 2022.²

5 IT IS HEREBY STIPULATE AND AGREED that:

6 1. In anticipation of the hearing, the parties have been conferring
7 regarding two issues. First, one of Mr. Williams's experts, Dr. Erin Bigler, is very
8 ill. The parties have conferred regarding deposing Dr. Bigler and presenting his
9 deposition in court under Fed. R. Civ. P. 32(a). The parties agree that Dr. Bigler
10 "cannot attend or testify [at the hearing] because of . . . illness" Fed. R. Civ. P.
11 32(a)(4). Thus, the parties have agreed to depose Dr. Bigler on March 23, 2022. This
12 deposition will occur virtually starting at 10 a.m. The parties agree this deposition
13 will be admissible, subject to the conditions imposed under Fed. R. Civ. P. 32(a).
14 Williams will the bear the costs, including the audiovisual recording costs.

15 2. Second the parties have conferred regarding the remaining deadlines
16 in this case. Counsel for Mr. Williams requires an additional two weeks to complete
17 his Prehearing Brief. Accordingly, counsel have come to a proposed agreement
18 regarding the remaining deadlines previously set by this Court. The schedule
19 proposed below does not change the hearing date, or the date to contact chambers
20 for marking exhibits: Williams's prehearing brief is moved two weeks from its
21

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23 ¹ ECF No. 291.

² ECF No. 292.

1 current deadline; all other deadlines are moved three weeks from their current
2 deadlines.

3 3. The parties ask this Court to modify its previous order and adopt the
4 following schedule for this evidentiary hearing:

5 (a) The evidentiary hearing will take place starting on May 16, 2022.

6 (b) Mr. Williams's pre-hearing brief will be due on February 28, 2022.

7 The State's responsive pre-hearing brief will be due on March 21,
8 2022. Mr. Williams's reply will be due on March 28, 2022.

9 (c) The witness lists and exhibits list will be due on March 31, 2022.

10 (d) Pre-hearing motions will be due on April 7, 2022. Any oppositions
11 or replies will be governed by LR 7-2(b).

12 (e) No later than five days before the hearing begins, the parties will
13 mark and submit exhibits.

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15 ///

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(f) The parties will continue to file status reports at three-month intervals, consistent with the January 14, 2021 order.

Dated this 8th day of February, 2022.

Rene L. Valladares
Federal Public Defender

Aaron Ford
Attorney General of Nevada

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Assistant Federal Public Defender

/s/ Jessica Perlick
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/s/ Heather Fraley
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Assistant Federal Public Defender

/s/ Charles L. Finlayson
Charles L. Finlayson
Senior Deputy Attorney General

/s/ Brad Levenson
Brad Levenson
Assistant Federal Public Defender

The parties will file any pre-hearing motions by **April 7, 2022**. The schedule for the briefing of such motions will be as set forth in Local Rule 7-2(b).

The parties are to contact Melissa Johansen, at melissa_johansen@nvd.uscourts.gov, no less than five calendar days before the evidentiary hearing to arrange to mark and submit exhibits.

The parties will continue to file, at three-month intervals and continuing until the hearing, joint status reports regarding the feasibility of adhering to this scheduling order in light of the COVID-19 pandemic, consistent with this Court's January 14, 2022 order. *See* ECF No. 288 at 2.



ANDREW P. GORDON
UNITED STATES DISTRICT JUDGE